

included a pre-planting “burndown” application to fields at least 21 days prior to planting cotton, and at least 14 days prior to planting soybeans.

6. At all times relevant to this indictment, the dicamba-based pesticide product STRUT, EPA Registration Number 3704-1043, was not approved for post-planting application to cotton crops, and the only approved post-planting application to soybean crops was for a preharvest application after soybean pods had reached mature brown color and at least 75% leaf drop had occurred.

7. At all times relevant to this indictment, the non-dicamba-based pesticide products Warrant Herbicide, EPA Registration Number 524-591, and Warrant Ultra Herbicide, EPA Registration Number 524-620, were approved for post planting application to soybean crops.

8. On multiple occasions in 2016, under the direction of Bobby Lowrey, dicamba-based pesticides were applied at Lowrey Farms post-planting to cotton and to non-mature soybean crops prior to the approved preharvest application interval.

9. Multiple farmers with crops growing in the vicinity of soybean and cotton fields or plots cultivated by Lowrey Farms reported damage to their crops in May and June of 2016 consistent with drift from the use of dicamba-based pesticides applied on Lowrey Farms plots.

10. In response to numerous reports of crop damage in the vicinity of Lowrey Farms, Missouri Department of Agriculture (“MDA”) responded to the area in late June 2016. Investigators with MDA requested to meet with Bobby Lowrey and asked Lowrey Farms to provide current spray application records for cotton and soybean crops to MDA.

11. On or about July 8, 2016, in meeting with MDA investigators, Bobby Lowrey told investigators that there had been no post-planting applications of dicamba to Lowrey Farms crops. On or about July 29, 2016, in meeting with MDA investigators, Bobby Lowrey told investigators that Strut had only been applied during burndown applications.

12. On or about July 8, 2016, in response to a request by MDA, Bobby Lowrey provided copies of spray application records for cotton crops to MDA. Bobby Lowrey certified the April 2016 cotton application log provided to MDA as "true and complete", knowing that the log had been altered to delete applications of Strut.

13. On or about July 8, 2016, in response to a request by MDA, Bobby Lowrey provided copies of spray application records for soybean crops to MDA. Bobby Lowrey certified the April 2016 and June 2016 soybean application logs provided to MDA as "true and complete", knowing that the logs had been altered to delete applications of Strut. Additionally, Bobby Lowrey knew the soybean application logs had also been altered to show applications of the pesticide Warrant instead of Strut.

The Applicable Law

14. The manufacture, distribution and use of pesticides is regulated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), Title 7, United States Code (U.S.C.), section 136 et. seq., and the regulations promulgated by the U.S. EPA as codified at Title 40, Code of Federal Regulations (CFR) Subchapter E.

15. In 7 U.S.C. § 136(u), the term "pesticide" is defined in part as: "(1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest...."

16. Pursuant to 7 U.S.C. § 136j(a)(2)(G), it is unlawful for any person to use any registered pesticide in a manner inconsistent with its labeling.

17. Under the Performance Partnership Grant Program (PPG), the U.S. EPA provides federal funds to the Missouri Department of Agriculture to implement, maintain and strengthen a comprehensive pesticide control program within the state which includes enforcement of pesticide use violations, certification and training of pesticide applicators, and worker safety. In order to receive PPG funds, MDA submits a Work Plan, subject to U.S. EPA approval, outlining the activities that the federal financial assistance is to support, such as facility inspections and

enforcement actions. The Work Plan requires MDA to submit periodic compliance monitoring reports to the U.S. EPA. Federal Grant Monitors evaluate MDA's progress in implementing the pesticide control program during Mid-Year and End of the Year reviews.

18. Paragraphs 1 through 17 of the Introduction are incorporated by reference into Counts 1 through 53 below.

COUNTS ONE THROUGH FORTY-NINE
(7 U.S.C. §§ 136j(a)(2)(G) and 136l(b)(2) – Unlawful Application of a Pesticide Inconsistent with its Labeling)

19. On or about the following dates,

BOBBY DAVID LOWREY, and,

LOWREY & LOWREY INC., dba Lowrey Farms

through their agents and employees and for the benefit of Lowrey & Lowrey Inc., in the Eastern District of Missouri, knowingly used a registered pesticide in a manner that was inconsistent with its labeling when they applied the dicamba-based pesticide STRUT, EPA Registration Number 3704-1043, to soybean and/or cotton crops:

Illegal Application of Dicamba to Soybean Crops:

Count	Date Planted	Date Sprayed with Dicamba	Field Number
1.	4/14/2016	4/14/2016	1146-4
2.	4/14/2016	4/14/2016	1146-5
3.	4/14/2016	4/14/2016	8455-9
4.	4/14/2016	4/16/2016	8455-10
5.	4/15/2016	4/16/2016	3888-1
6.	4/16/2016	4/16/2016	3837-1
7.	4/18/2016	4/18/2016	424-1
8.	4/18/2016	4/18/2016	417-1 west

Count	Date Planted	Date Sprayed with Dicamba	Field Number
9.	4/18/2016	4/18/2016	417-1 east
10.	4/19/2016	4/18/2016	1285-8 south
11.	4/23/2016	4/25/2016	4051-31
12.	4/23/2016	4/25/2016	4051-30
13.	4/23/2016	4/25/2016	4052-27
14.	4/23/2016	4/25/2016	4052-29
15.	4/24/2016	4/25/2016	4054-22
16.	4/24/2016	4/25/2016	4051-10
17.	4/25/2016	4/25/2016	4051-8
18.	4/25/2016	4/28/2016	1285-8N
19.	4/26/2016	4/28/2016	1285-7
20.	4/26/2016	4/28/2016	4051-4
21.	4/26/2016	4/28/2016	4051-2
22.	4/26/2016	4/28/2016	4051-1
23.	4/27/2016	4/28/2016	1285-1
24.	4/26/2016	4/28/2016	5074-7

Illegal Application of Dicamba to Cotton Crops:

Count	Date Planted	Date Sprayed with Dicamba	Field Number
25.	4/16/2016	4/18/2016	5074-1
26.	4/16/2016	4/18/2016	5074-2
27.	4/18/2016	4/18/2016	5074-3

Count	Date Planted	Date Sprayed with Dicamba	Field Number
28.	4/18/2016	4/18/2016	5074-5&6
29.	4/18/2016	4/18/2016	5074-4
30.	4/18/2016	4/19/2016	4051-6
31.	4/18/2016	4/19/2016	4051-7
32.	4/18/2016	4/19/2016	4051-3
33.	4/19/2016	4/19/2016	1146-1
34.	4/18/2016	4/19/2016	1146-2
35.	4/19/2016	4/19/2016	1146-3
36.	4/19/2016	4/19/2016	1285-3
37.	4/19/2016	4/19/2016	1285-2
38.	4/19/2016	4/19/2016	1285-6
39.	4/19/2016	4/19/2016	1285-5
40.	4/19/2016	4/20/2016	8448-2
41.	4/19/2016	4/20/2016	8455-1
42.	4/20/2016	4/20/2016	1285-4
43.	4/20/2016	4/20/2016	6412-2
44.	4/20/2016	4/20/2016	8448-3
45.	unknown	4/20/2016	8274-1
46.	4/20/2016	4/20/2016	8273-1
47.	4/20/2016	4/20/2016	6413-1s
48.	unknown	4/23/2016	8272-1
49.	4/23/2016	4/23/2016	6412-1

20. All in violation of Title 7, United States Code, Sections 136j(a)(2)(G) and 136l(b)(2).

COUNT FIFTY
(18 U.S.C. § 1001(a) -- False Statement)

21. On or about July 8, 2016, in the Eastern District of Missouri, the defendant,

BOBBY DAVID LOWREY,

willfully made and used a false writing and document knowing it to contain a materially false and fraudulent statement or entry in a matter within the jurisdiction of the U.S. EPA by providing a hand-written notice to MDA which stated “No dicamba post-plant applications,” in violation of Title 18, United States Code, Sections 1001(a) and 2.

COUNTS FIFTY-ONE THROUGH FIFTY-THREE
(18 U.S.C. § 1519 – Obstruction of Justice)

22. On or about July 8, 2016, in the Eastern District of Missouri, the defendants,

BOBBY DAVID LOWREY, and

LOWREY & LOWREY INC., dba Lowrey Farms

through their agents and employees and for the benefit of Lowrey & Lowrey Inc., knowingly altered, falsified, and made false entries in a record, document, and tangible object, with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of the U.S. EPA, by deleting pesticide application log entries that showed the application of the dicamba-based pesticide STRUT, EPA Registration Number 3704-1043, to Cotton crops on or about April 18-23, 2016.

23. On or about July 8, 2016, in the Eastern District of Missouri, the defendants,

BOBBY DAVID LOWREY, and

LOWREY & LOWREY INC., dba Lowrey Farms

through their agents and employees and for the benefit of Lowrey & Lowrey Inc., knowingly altered, falsified, and made false entries in a record, document, and tangible object, with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of the U.S. EPA, by deleting pesticide application log entries that showed the application of the dicamba-based pesticide STRUT, EPA Registration Number 3704-1043, to Soybean crops on or about April 14-28, 2016.

24. On or about July 8, 2016, in the Eastern District of Missouri, the defendants,

BOBBY DAVID LOWREY, and

LOWREY & LOWREY INC., dba Lowrey Farms

through their agents and employees and for the benefit of Lowrey & Lowrey Inc., knowingly altered, falsified, and made false entries in a record, document, and tangible object, with the intent to impede, obstruct, and influence the investigation and proper administration of a matter within the jurisdiction of the U.S. EPA, by altering log entries for the application of pesticides to Soybean crops that occurred on or about June 13-15, 2016.

All in violation of 18 U.S.C. §§ 1519 and 2.

A TRUE BILL.

FOREPERSON

JEFFREY B. JENSEN
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Dianna R. Collins, #59641MO
Assistant United States Attorney